



An  
Bord  
Pleanála

## Inspector's Report

### ABP-313452

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<b>Development</b>	Retention of projection of rear roof of residential unit and raising of rear wall to incorporate windows and associated works in a Protected Structure.
<b>Location</b>	2 Upper William St. Listowel, Co. Kerry
<b>Planning Authority</b>	Kerry County Council
<b>Planning Authority Reg. Ref.</b>	22137
<b>Applicants</b>	Martin Stack
<b>Type of Application</b>	Permission for Retention.
<b>Planning Authority Decision</b>	Grant Permission
<b>Type of Appeal</b>	Third Party
<b>Appellants</b>	Gina Scannell
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	22 <sup>nd</sup> March 2023.
<b>Inspector</b>	Suzanne Kehely

## 1.0 Site Location and Description

- 1.1. This appeal site relates to a mid-terraced property (protected structure) along the west side of Upper William Street. It is 4 bay traditional two-storey property as presented to the street but presently incorporates an extended dormer type roof to the rear among other extensions at ground and first floor levels. The roof extension comprises a flat roof projection from just below ridge height and projects out to the rear wall which has been raised and provides roof level accommodation. There is an off-licence at ground level which extends deep into the site and the upper floors are arranged (in plans ) as a single 3 bed residential unit over two levels above ground level. The principal facade includes a traditional shopfront with 'Number 21' individual mounted painted letters in the fascia and also includes a retail access, an independent upper floor access and gated stable entrance. The first floor façade features what appears to be modern two over two traditional style sliding sash windows with glazing bars and a rendered and painted finish.
- 1.2. The roof as viewed from street level is newly tiled and retains chimneys. The premises to the rear extends deep into the site and there is a large stone warehouse type building along the lane frontage. The lane to the rear is called Patrick Street and provides a service entrance to multiple properties on both sides and also provides access to a public parking area.
- 1.3. Upper William Street is part of the main throughfare through the town centre and comprises a mix of commercial and residential uses. Buildings range in height from single storey cottages to 3 storeys.
- 1.4. The appellant lives in the adjacent dwelling to the south. This is a single storey dormer cottage with a pair of decorative dormer windows to the front. It is in residential use and the owner appears to run a medical practice from this noting the name plate. I entered this property to access the rear garden from where I took photographs of the subject site.
- 1.5. To the north, the site is adjoined by a similarly scaled two storey traditional premises as presented on Upper William Street but has been considerably extended to the rear.

1.6. The objections to the planning authority include photographs as does the applicant's unsolicited response. The planning report of the planning authority also includes photographs of the rear. These should be looked at in addition to site inspection photographs.

## 2.0 Proposed Development

- It is proposed to retain the dormer roof extension to the rear of the property to provide extended residential accommodation (stated to be 157 sq.m. in total) – a two storey 3 bed unit over the off-license premises.
- The dormer spans a width of c.10.2m to a property that is 11.35m in width. The dormer height is 9.23m (sloping to 9.1m in the direction of the eaves) above ground level whereas the ridge is 9.55m
- The accommodation is divided into:  
Roof level : two bedrooms, a bathroom and stairwell each lit by the new vertical dormer windows to the rear and ancillary space such as an ensuite, hot press and wardrobe to the front (no windows.)  
First floor level: kitchen living space with a single bedroom and bathroom.  
Return level: a utility room off the stairwell in a small flat roof extension to the rear. [Note: there are no original plans submitted - only that which are provided by way of the subject extension.]
- Finishes: Slate type tiles to match the roof. Windows are of varying styles. [Note: the windows in situ are all different as compared to the drawings which show 3 of the 4 being of the same dimension and height.]
- In unsolicited additional information submitted in response to the objection, it is explained that the applicant intends to live in the property and the principle accords with the Town Centre First Plan.
- In terms of overlooking it is explained that there were previously skylights in the attic level and that the second floor window are not materially different than those on the first floor level. [Note: the skylights are not illustrated in any plans]
- It is explained that the drainage has been rearranged so that it is split and that there is no material change to run-off than is existing in terms of relationship with the property to the south. (appellant)

### 3.0 Planning Authority Decision

Kerry County Council by order dated 7<sup>th</sup> April 2022 decided to grant permission subject to one condition requiring compliance with details submitted as part of the application and also as unsolicited information.

#### 3.1. Planning Authority Reports

- 3.1.1. Planning Report: The application is assessed by reference to the previous county development plan and Listowel Town Development Plan 2009-2015. While the roof is visible from the street it is not considered to negatively impact on the character of the streetscape or the protected structure. With respect to objections, the proposal is not considered to be much different in terms of overlooking that may arise from the first floor window. Drainage is considered to be not materially different as no change proposed. No AA or EIA issues arise.

#### 3.2. Prescribed Bodies

The application details were referred to statutory bodies but no submissions were made to the planning authority.

#### 3.3. Third Party Observations

Objections substantially as raised in grounds of appeal.

### 4.0 Planning History

- 4.1 ABP case 309952 : **permission** for ground floor extension to rear of no. 6 and refusal for dwelling over garage . Also **refusal** for retention of workshop for reason :

The proposed retention of the workshop constructed to the rear of no.6 Upper William Street a protected structure of architectural and historical importance would disrupt the relationship between the building and its rear amenity space and would negatively impact on the character of the building and would potentially prejudice its re-occupation and use. The development proposed for retention would therefore seriously injure the setting and character of a

protected structure in a manner that would be contrary to the advice given in section 13.5 of the Architectural Heritage Protection Guidelines for Planning authorities issued by the Department of the Environment Heritage and Local Government in December 2004 and contrary to the objective H-38 of the Kerry CDP 2015-2021 and BHUD 27 of the Listowel Town Plan 2009-2015 as extended and varied , would seriously injure the amenities of the area and would therefore be contrary to the proper planning and development of the area.

## 5.0 Policy Context

### 5.1. Development Plan

5.1.1. **Kerry County Development Plan 2022-2028** is the operative development plan. The Kerry County Development Plan 2015-2021 remained in place until 28<sup>th</sup> November 2022 .

5.1.2. Urban regeneration and compact growth objectives:

- KCDP 4-1 Support and facilitate the objectives and actions in Housing for All (HfA) to regenerate towns and villages, to tackle dereliction, vacancy, to deliver site assembly opportunities and to promote the sustainable development of land to achieve compact growth and increased population in these centres and to engage with the Land Development Agency (LDA), where appropriate, in the identification, planning and co-ordination of strategic, publicly owned land banks to achieve compact growth, sustainable development, and urban regeneration.
- KCDP 4-2 Facilitate and support the sustainable development of towns and villages of sufficient scale and quality to be drivers of growth, investment, and prosperity.
- KCDP 4-3 Preserve the architectural heritage of towns and villages and promote conservation-led regeneration and the re-use of buildings where possible

5.1.3. Shopfront:

- KCDP 4-24 Ensure that traditional shopfronts and signage are retained and that works to existing shopfronts, new shopfronts and streetscape developments are

in accordance with Kerry County Council's Shopfront Design Guide 2018 and are of a high-quality architectural design and finish

5.1.4. Chapter 8 sets out policy and objectives for built architectural heritage. Section 8.4.2 refers to the record of protected structures,

- KCDP 8-40 Ensure that any development, modification, alteration, or extension affecting a protected structure and/or its setting including designed landscape features and views, is compatible with the special character of that structure.
- KCDP 8-42 Prohibit demolition or inappropriate alterations and replacement of elements of protected structures where they would adversely affect the essential character of a protected structure.
- KCDP 8-44 Ensure developments in an ACA have a positive impact on the intrinsic character of the area, respect the existing streetscape and layout, and are compatible in terms of design, materials, traffic, views, and intensity of site use.

**5.2. Listowel LAP and Listowel specific policies and objectives as contained in KCDP 2022-2028 – Volumes 2 (Town Development Plans), 3 (RPS /ACA) and 4 (Maps)**

5.2.1. The site is located within the town centre and is part of block zoned as mixed use M2.

5.2.2. The premises is included in the RPS (Volume 3) RPS-KY-0799 and is described as a Terraced structure with Architectural, Artistic, historical and social interest. It is part of the town centre ACA and the importance of Listowel in the county is referred to as being on the basis of its architectural and historical character. In the 'statement of special character', it is referred to as one of Kerry's finest towns retaining many of its historic shopfronts and streetscapes.

5.2.3. Section 3.4 (Vol.2) refers to urban generation and living over the shop. A key aim is to make town centres attractive and desirable places to live and work. Part of this includes enhancing the public realm. Among the opportunities identified include:

- Developing an attractive urban centre providing an attractive location for investment, employment, residential and leisure activities and extending the dwell time of visitors to the town.
- Establishing the Town Square, Small Square and William Street as a nucleus for the Town and basis for the Public Realm Plan and subject to environmental assessment.
- In conjunction with the Smarter Travel theme, enhancing Listowel as a 'Destination Town' by consolidating the cycling and walking route networks through the town centre in connectivity with the developing greenways through projects identified in the Listowel Active Travel Transport Plan and funded under the NTA Active Travel Programme.
- Developing the concept of placemaking and valuing the built heritage of Listowel Town.

**Objectives:**

- LIS 31 Develop the concept of placemaking and valuing the built heritage of Listowel Town.
- LIS 32 Ensure that future development in the town takes place on infill, brownfield and greenfield sites contiguous with the built-up area and consolidates the compact urban form of the town making it an attractive and sustainable settlement.

5.2.4. The site is just outside the regeneration area in Map 3.1. Accordingly the relaxations for this site for Living over the shop and higher density potential do not apply. A large backland site to the rear on the opposite side of the lane is identified as a regeneration site – the largest in the town centre.

5.2.5. Section 3.4.2.1 Living Over the Shop: The Council will consider a reduction in open space and car parking standards for “living over the shop” accommodation proposals in areas designated as Regeneration Neighbourhoods, subject to protecting residential amenity, where considered appropriate by the Planning Authority.

5.2.6. Section 3.9.2 refers to architectural heritage.

5.2.7. The site included in the Town Centre Architectural conservation Area in Map 3.4

- 5.2.8. LIS 62 Prepare an ACA Management Plan to protect the character of the designated Architectural Conservation Areas that are of special importance to the architectural, historical, cultural or social character of the town.
- 5.2.9. LIS 65 Facilitate and support the sustainable re-development of Listowel's buildings of historical character (including protected structures).
- 5.2.10. LIS 67 Ensure that the design of premises or the refurbishment of existing premises in the town is sympathetic to existing development in the vicinity and is of a design composition that enhances the streetscape.
- 5.2.11. LIS 69 Ensure the conservation of noteworthy features and architectural detailing of structures, the character of buildings and the continuity / homogeneity of terrace designs, which contribute to urban form and visual amenity and architectural interest.

### 5.3. **Architectural Heritage Protection – Guidelines for planning authorities, 2011**

- 5.3.1. These guidelines are relevant to the context of a Protected Structure on site and its location in an ACA. Chapter 9 provides guidance for **roofs** and **dormer** windows.
- section 9.2.6: Proposals to alter the shape of the roof of a protected structure or of a structure within an ACA will have a potential impact on the character of the structure and its surroundings. It should not be permitted without careful consideration of the circumstances.
  - Section 9.2.7: Roofs of protected structures should retain their original form and profile and not be radically altered, for example, to provide extra accommodation in the form of a mansard roof. The insertions of lift-motor rooms, plant rooms and dormers can also materially alter the character and profile of a historic roof and should be carefully scrutinised. Similar alterations to other structures in an ACA should only be permitted after careful consideration of any effect that the alteration could have on the character of the ACA or on the setting of adjacent protected structures.
  - Section 9.4.20: Proposals to remove or alter original or early dormer windows, access hatches, skylights and rooflights from a protected structure will affect the character of the structure and should be carefully scrutinised. Alterations



to these features will affect the overall appearance of the structure and, in some cases, the appearance of an entire terrace of buildings.

- Section 9.4.21 Original dormer windows should be retained and repaired rather than replaced. The enlargement of existing dormers and the linking of dormers should not be permitted where this would adversely affect the external appearance of the building. Old or interesting glass, whether coloured, painted or plain, should be conserved when repairing skylights, rooflights and dormer windows.
- Section 9.4.22 Where it is proposed to install new dormers or rooflights, the extent of potential damage to historic roof structures should be considered. If the building is part of a terrace, the proposed addition may upset the balance of the whole architectural composition. New rooflights and dormers on minor or concealed slopes may be considered acceptable in some cases. Low-profile 'conservation-type' rooflights with a central glazing bar should be used in preference to standard modern types. Where a large increase in natural lighting is required in the roof space below, it is usually preferable to permit the use of patent glazing in place of the existing roof cladding rather than the use of excessive numbers of rooflights which would disrupt the visual appearance of the roof.

#### **5.4. National Planning Framework (February 2018),**

- 5.4.1. This framework plan supports a strategy of carefully managing the sustainable growth of compact cities, towns and villages in a manner that will add value and create more attractive places in which people can live and work.

#### **5.5. Natural Heritage Designations**

Not relevant in this serviced urban site.

#### **5.6. EIA Screening**

- 5.6.1. The proposal is to retain alterations to in the upper levels of an existing structure. Having regard to the nature of the development, and limited associated site works

and the absence of features of ecological importance within the site, I consider that the necessity for submission of an EIAR and carrying out of EIA can be set aside at a preliminary stage.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

A third party appeal has been lodged by the owner of the adjoining terraced dwelling. The grounds refer to:

- **Visibility** of the roof from the street having regard to its scale and bulk and incongruity with other recent developments.
- **overlooking and nuisance** having regard to the nature, number, proximity and height of windows to be retained. This is submitted to be apparent from the appellant's photograph. Velux rooflights would be more appropriate. The four windows in the form proposed is excessive in terms of impacts on adjacent dwelling.
- unauthorised development and non-compliance with regulations.

### 6.2. Planning Authority Response

No further comments

### 6.3. Applicant's Response

- The applicant explains that the proposal is to accommodate his family so as they can return to live in the reconfigured premises where he grew up. It is explained that while previously the ground floor provided some residential accommodation as part of a multi-business site, the entire ground floor is now leased out to an off-licence. The attic level always had a bathroom.
- It is explained that the applicant already consulted with neighbours on each side and that a window had been reduced on foot of this and he thought all to be to the satisfaction of the owner to the south.

- The building works and essential works ensure the continued integrity of the building. It is submitted to sit proudly in the streetscape as it did in 1875.

## **7.0 Assessment**

### **7.1. Issues**

- 7.1.1. The key issues in this appeal relate to impact on architectural heritage and impact on residential amenity. I do not consider drainage to be a substantive planning issue in this case.

### **7.2. Impact on architectural heritage.**

- 7.2.1. The proposal involves the retention of a large four- window dormer type extension that virtually replaces the entire rear slope of the roof and is what I consider to be wholly incongruous with the original roof profile and building character. It spans a width of over 10m which is considerable by itself and in the context of an 11.35m wide property. The incongruity is further highlighted by the vertical windows of different sizes which lack unity in the roof elevation by itself and with the original window design. The extension only marginally sits below the roof ridge and is only minimally recessed from the gable end. The extent of protection of 3.7m to line up with the rear façade at a height just below the roof ridge on a building that is just over 8m deep effectively squares off the rear roof level and dramatically alters its profile. Its height at over 9m relative to the adjacent dormer cottage with an eaves height of c.2.8m and ridge of 5.75m, means that there are views of this considerably altered roof from the opposite side of the street to the south. Accordingly, I agree with the appellant that the scale and bulk is inappropriate in visual terms and say this having regard to the roovescape and its protection by virtue of the building being a protected structure and also by it forming part of an Architectural Conservation Area and by particular reference to the guidance in Architectural Heritage Protection – Guidelines for planning authorities, (2004) as contained in chapter 9. Guidance specifically on roofs and dormer windows in such an architecturally sensitive context is set out in this chapter as cited in section 5.3 of this report.

- 7.2.2. There are I accept only glimpsed views of the rear of the property from Patrick Street – the lane to the rear, due to the street width and built-up nature . However this area is the subject of plan led rejuvenation objectives where there is likely to be active frontage consequent on the planned permeability and access points as set out in the maps for the town in the current development plan. Accordingly rear elevation views are not insignificant.
- 7.2.3. The applicant makes the case that the roof extension is simply enhancing and extending attic accommodation previously there, all for the purpose of facilitating his return to live in the premises where he grew up. He explains that the nature of business and circumstances have changed in the premises which has been in his family since 1915 such that residential use is now more segregated and confined only to the upper floor while the entire ground floor is separately leased out to an off-license. Essentially the case is made that the ground floor use (which is undefined) demands an upper-level extension. While I do not question the principle of providing and improving residential accommodation in the premises and note the numerous policies in support of this, I consider the design approach in this case fails to have adequate regard to the criteria for protected structures by reference to section 52 guidance and to some extent on the residential amenities.
- 7.2.4. In support of the application I note that the streetscape facade is in good order visually and retains its intrinsic character in terms of openings, shopfront details and overall form, although joinery and roofing material are unlikely to be like for like replacements. I also note that the architectural character is much derived from the shopfront and façade details. The rear elevation however has been the subject of a number of interventions in terms of extensions and openings.
- 7.2.5. In terms of justification of the proposal, the application lacks a detailed and informed conservation statement which documents interventions and sets out a conservation led approach to the protected structure. It would appear, based on the information that the attic level bathroom is being retained in situ while one bedroom is proposed on each side of this bathroom and each has access to vertical windows. It would be preferable to have a considerably more subordinate style of design with un-joined dormer windows and with a stepping back from the south. I accept that the extension to the north is considerable, but I note it is not a protected structure. I would also question the need for the scale of extension of accommodation which

provides for 3 bathrooms and a utility for a relatively modest dwelling. I would also have concerns about the lack of details in respect of access to open space although it would appear to be quite overshadowed by the surrounding development. There is also the issue of other uses of the structures on site and implication of the overall site and demands on the open space. On balance I consider that a more comprehensive approach is needed in extending the attic level at the scale proposed so as to ensure the protection of the integrity the protected structure and its curtilage in accordance with the development plan criteria and as supported by the Architectural Heritage Guidelines.

- 7.2.6. I do not consider the applicant has made a sufficient and informed conservation-based case for introducing a prominent and incongruous roof form to a protected structure in an Architectural Conservation area. If the Board is of mind to grant permission, I consider a setback of at least 2.5m from the southern gable would be somewhat satisfactory in terms of reducing the bulk and prominence of the extension as viewed from the street.

## **7.5 Impact on amenity**

- 7.2.7. The main source of contention is the number and proximity of windows in a habitable dwelling that would give rise to additional overlooking and nuisance to the rear of no.60 - an adjoining dwelling to the south and that of the appellant. In the first instance there is no issue of opposing windows and accordingly the privacy of the habitable accommodation in the adjacent dwelling house is not impacted. The issue is that the windows overlook the private curtilage to the rear. I accept that this space is important for privacy having regard to the lack of privacy to the front and the commercial use of part of the house and that there will be enhanced overlooking of this space. I also accept however that this is not unreasonable in a town centre location. As the dormer windows relate to bedrooms (the other two could be obscured) they are unlikely to be a source of undue overlooking or disturbance. I consider the issue is more one of overbearing impact having regard to the height differences and the dwarfing of the cottage style house and dominance over its private curtilage. This is accentuated by the extent, height and scale of development of the site already.

7.2.8. Accordingly I consider impact on residential amenity constitutes grounds for refusal.

### 7.3. Procedural Matters

7.3.1. I note the description in the application and notices refers to the roof and external wall and windows but does not include internal works. It would appear that extensive internal alterations have been carried out to the first floor as well as the roof. These works are not described – there are no clear ‘before’ and ‘after’ details. Some works may have been subject of declarations of exemption but there are no such details on file. It could also be argued that the works on the first floor are not part of the application and if unauthorised, for example arising from its protected status, then that is a matter for enforcement and the Board is confined to considering the roof only. However the plans at roof level clearly includes internal alterations which are not included in the public notices. I do not consider ‘ancillary works’ covers revision to floor plans in a protected structure. As the roof relates to the first floor, nor do I consider the roof can be considered without considering the first floor. The validity of the application is accordingly called into question. Ultimately, the approach as I have flagged is somewhat piecemeal and requires a more comprehensive conservation led approach. There is I consider, a case to be made that the description in the public notices is deficient as it fails to comply with Article 18. 1(d)(iii) of the Planning and Development Regulations 2001, as amended. The lack of details is I consider also deficient for the purposes of complying with Article 23 (1) (e) which requires ‘plans relating to works comprising reconstruction, alteration or extension of a structure shall be so marked or coloured as to distinguish between the existing structure and the works proposed.’ Moreover the lack of information on the original structure fails to meet with the requirement in Art. 23 (2) that ‘ A planning application for development consisting of or comprising the carrying out of works to a protected structure, or proposed protected structure or to the exterior of a structure which is located within an architectural conservation area, shall, in addition to meeting the requirements of sub-article (1), be accompanied by such photographs, plans and other particulars as are necessary to show how the development would affect the character of the structure.’ In such circumstances where the application does not meet the requirements of the Planning and Development Regulations, the Board is precluded from granting planning permission. If the Board is of mind to grant

permission I consider further details of before and after plans so as to ascertain the full extent of interventions with original fabric should be submitted. Such details should be fully captured in a conservation report and in the public notices as appropriate.

#### **7.4. Appropriate Assessment**

7.5.2. Having regard to the nature of the proposed development and/or nature of the receiving environment and/or proximity to the nearest European sites, no Appropriate Assessment issues arise and it is not considered that the development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

#### **8.0 Recommendation**

8.1 I recommend that permission be refused based on the following reasons and considerations.

#### **Reasons and Considerations**

1. Having regard to the original architectural style and prominence of the building fronting no.3 Upper William Street, a Protected Structure and the architectural character of the area which is a designated Architectural Conservation Area and also having regard to the provisions of the Architectural Heritage Protection – Guidelines for planning authorities, published by the Department of the Environment, Heritage and Local Government (2004), it is considered that the extension to the roof and alteration to the roof profile to be retained, notwithstanding the additional residential accommodation, is of an inappropriate design due to its mass, scale, bulk and window composition and fails to integrate satisfactorily with the building and roofscape and would accordingly contravene objectives KCDP 8-40, KCDP 8-42, KCDP 8-44 of the Kerry County Development 2022-2028, intended to protect the architectural character of such properties. It is furthermore considered that the retention the roof extension would seriously injure the residential amenity of the neighbouring dwelling to the south by reason of its

overbearing and obtrusive impact. The proposed retention of this development would accordingly be contrary to the proper planning and sustainable development of the area.

2. It is considered that the description of the development relating to a Protected Structure and its interior and submitted details fail to adequately comply with the requirements of Articles 18 (1)(d), and 23(1) and (2) of the Planning and Development Regulations 2001, as amended. In such circumstances the Board is precluded from granting planning permission.

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Suzanne Kehely  
Senior Planning Inspector

15<sup>th</sup> April 2023